

TRANSCRIPT OF TRIAL, DATED FEBRUARY 24, 2012

[118-174]

1 CIVIL COURT OF THE STATE OF NEW YORK

2 COUNTY OF NEW YORK: PART 84

3 -----x

4 JOSE BORGES,

Plaintiff, Index No.
114016/03

5 - against -

6
7 ENTRA AMERICA, INCORPORATED, ADELA IVAN, ALFRED
PLACERES, JAMAL JBARA,,

8 Defendants.

9 -----x

10 February 24, 2012
11 111 Centre Street
12 New York, New York 10013

13 B E F O R E: JUDGE FRANK NERVO

14
15 A P P E A R A N C E S:

16 For the Plaintiff
17 PAUL O'DWYER, ESQ.
18 134 West 26 Street
New York, New York 10001

19 For the Defendants
20 JOSE LUIS TORRES, ESQ.
202 Mamaroneck Avenue
White Plains, New York 10601
21 BY: BRIAN K. ROBINSON, ESQ.

22
23 BETH FONTANE, RPR
24 Official Court Reporter

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Beth Fontane, RPR

PROCEEDINGS

1 Counsel makes about the negligence supervision claim,
2 it is really similar to negligent misrepresentation.

3 THE COURT: Legal malpractice, legal malpractice,
4 again, case law regarding the breach of fiduciary duty
5 claim similar to breach of fiduciary duty. The Court
6 stated the negligent misrepresentation claim and the

7 breach of fiduciary duty claim that they are
8 duplicative of the malpractice claim and arise from the
9 same set of facts in that claim and here it is the same
10 case.

11 MR. ROBINSON: I gave it to Counsel.

12 THE COURT: Court dismissing first cause of action
13 for negligence.

14 At this time The Court is dismissing on its own
15 motion first cause of action for negligence, the third
16 cause of action for breach of contract, the fourth
17 cause of action for negligence supervision, and the
18 seventh cause of action for breach of fiduciary; all as
19 being duplicative of the plaintiff's cause of action

20 for legal malpractice.

21 The Court will withhold any decision with respect
22 to the sixth cause of action for fraud at this time.

23 MR. ROBINSON: Did you mention the fifth cause of
24 action as well?

25 THE COURT: No.

Beth Fontane, RPR